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GOVERNMENT OF INDIA

CENTRAL BOARD OF REVENUE

NOTIFICATION

INCOME TAX

New Delhi the 3rd September 1949

No. 87.—The following draft of certain Rules which it is proposed to make in exercise of the powers conferred by section 15C and sub-section (1) of section 39 of the Indian Income Tax Act 1922 (XI of 1922) is published as required by sub-section (4) of the said section 39 for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration on or after the 20th September 1949.

Any objection or suggestion which may be received from any person with respect to the said draft before the aforesaid date will be considered by the Central Board of Revenue.

DRAFT RULES

Rules for the computation of capital employed in an undertaking for the purposes of section 15C of the Indian Income Tax Act 1922

1 These rules may be called the Indian Income Tax (Computation of Capital of Industrial Undertakings) Rules 1949.

2 In these Rules—

- (i) 'Act' means the Indian Income Tax Act 1922 (XI of 1922),
- (ii) 'Average cost' in relation to any asset means such proportion of the actual cost thereof as the number of days of the computation period during which such asset is used in the business bears to the total number of days comprised in the said period,
- (iii) 'Computation period' means the period for which the profits and gains of the undertaking are computed under section 10 of the Act,
- (iv) 'Depreciation' means the allowance admissible under clauses (vi) and (vii) of sub-section (2) of section 10 of the Act,
- (v) 'Written down value' means the written down value computed under sub-section (5) of section 10 of the Act as if for the words

"previous year" the words "computation period" were substituted.

(1) For the purpose of section 15C of the Act, the capital employed in an undertaking to which the said section applies shall be taken to be—

- in the case of assets acquired by purchase and entitled to depreciation—
 - if they have been acquired before the computation period, their written-down value on the commencing date of the said period;
 - if they have been acquired on or after the commencing date of the computation period, their average cost during the said period;
- In the case of assets acquired by purchase and not entitled to depreciation—
 - if they have been acquired before the computation period, their actual cost to the assessee;
 - if they have been acquired on or after the commencing date of the computation period, their average cost during the said period.
- in the case of assets being debts due to the person carrying on the business, the nominal amounts of those debts subject to the deductions hereinafter mentioned;
- in the case of any other assets the value of the assets when they became assets of the business provided that if any such asset has been acquired within the computation period, only the average of such value shall be taken in the same manner as average cost is to be computed.

(2) Where the price of any asset has been satisfied otherwise than in cash, the then value of the consideration actually given for the asset shall be treated as the price at which the asset was acquired.

(3) Any borrowed money and debt due by the person carrying on the business shall be deducted and in particular there shall be deducted any debts incurred in respect of the business for income tax and super-tax or business profits tax or for advance payments due under any provision of the Indian Income-tax Act, 1922 or for any sum payable in relation to business profits tax under section 19 of the Business Profits Tax Act, 1947 (XXI of 1947).

Provided that any such debt for income-tax or super-tax or business profits tax shall, for the purpose of this sub-rule, be deemed to have become due—

- in the case of income-tax and super-tax on the last day of the period of time within which the tax is payable under section 45 of the Act;
- in the case of business profits tax on the first day after the end of the chargeable accounting period in respect of which the tax is assessable notwithstanding that the business profits tax may not have been assessed until after that date;
- in the case of any advance payment due under any provision of the Act or of any provisional tax paid under section 23B of the Act,

on the date on which, under the provision of section 45 of the Act, the payment first became due;

(4) Where any debt for business profits tax assessable in respect of any period is to be deducted under this rule the amount thereof shall not be reduced as a result of any relief to be given in respect of a deficiency of profits accruing in any subsequent period, and the amount of such relief shall be treated as having become an asset of the business on the first day after the end of the chargeable accounting period in which the deficiency occurred

(5) Any investments the income from which is not to be taken into account in computing the profits of the business and any moneys not required for the purposes of the business, shall be left out of account, but where any investments in the beneficial ownership of the person carrying on the business are so left out of account, the sum (if any) to be deducted under sub-rule (3) in respect of borrowed money shall be computed as if the principal of the borrowed money were reduced by the value of those investments.

(6) For the purpose of ascertaining the average amount of capital employed in a business during any computation period, the profits or losses made in that period shall, except so far as the contrary is shown, be deemed—

- to have accrued at an even rate throughout the said period; and
- to have resulted, as they accrued, in a corresponding increase or decrease, as the case may be, in the capital emp'oyed in the business.

4. In case of any doubt in the interpretation or application of these rules and in particular where there is any difficulty in computing the capital employed in respect only a part of an undertaking the decision of the Central Board of Revenue shall be final.

S. P. LAHIRI.

Secretary, Central Board of Revenue.

